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Letter dated 6 March 2017 from the Permanent Representative of Burundi to the United Nations addressed to the President of the Security Council

With reference to the consultations of the Security Council on Burundi to be held on 9 March 2017 and the report of the Secretary-General on Burundi (S/2017/165), I have the honour to submit herewith an updated information note on the situation in Burundi for circulation as a document of the Security Council (see annex).

The updated note aims to bring to your attention that, in his report, the Secretary-General has included some unconfirmed facts and has intentionally forgotten to report many new positive developments in the country during the period under review. Although Burundi still faces some political, security, humanitarian, human rights and development challenges, as do other nations, it is clear that some of the facts mentioned in the report of the Secretary-General have been deliberately exaggerated, while many others are simply raised without evidence. The points contained in the annex will undoubtedly provide the members of the Security Council with additional information to balance their understanding of the real situation in Burundi.

(*Signed*) Albert **Shingiro**
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Annex to the letter dated 6 March 2017 from the Permanent Representative of Burundi to the United Nations addressed to the President of the Security Council

Information note on the current situation in Burundi

Updated on 6 March 2017

1. Introduction

With reference to the consultations of the Security Council on Burundi to be held on 9 March 2017 and the corresponding report of the Secretary-General on Burundi (S/2017/165), this updated note aims to highlight that, in his report, the Secretary-General has included some unconfirmed facts and has forgotten to report many new positive developments in the country during the period under review. Although Burundi still faces some political, security, humanitarian, human rights and development challenges, as do other nations, it is clear that some of the facts mentioned in the report have been deliberately exaggerated, while many others are simply raised without evidence. The following points will undoubtedly provide the members of the Security Council with additional information to balance their understanding of and positions on the real situation in Burundi.

2. Nature of the Burundi problem

The situation in Burundi is a fundamentally political problem without any relevant ethnic dimension, and the Government discourages all stakeholders, especially the politicians of the radical opposition in exile, from any attempt to use the ethnic fibre for political gain.

3. Political developments

The Government of Burundi is continuing its efforts to create an environment conducive to national reconciliation, the return of refugees and exiled politicians and the holding of free, transparent, democratic and credible elections in 2020, in line with international electoral standards. It is in this context that the Government remains very committed to the process of internal dialogue, under the leadership of the National Commission for the Inter-Burundi Dialogue, and to external dialogue, facilitated by the East African Community. The Government of Burundi reiterates its full confidence in and support for the facilitator of the Inter-Burundi Dialogue, Benjamin William Mkapa, former President of Tanzania, and the Commission.

Regarding the voluntary return of refugees, envoys of the Government are visiting the host countries to mobilize Burundian refugees to return to Burundi to participate in the reconstruction of their country. In February, the Minister of the Interior visited a refugee camp in Uganda to reassure the refugees that the conditions are being met for their voluntary return to Burundi. Taking into account the data available to the Ministry, as at 31 December 2016, more than 100,000 Burundians had already returned to Burundi out of about 265,000 Burundians who were in exile. We hope that this return movement will continue. While thanking the host countries for the hospitality they have extended to Burundian refugees, we also invite the Office of the United Nations High Commissioner for Refugees, host

countries and partners of Burundi to assist in accelerating the return of the remaining Burundian refugees to their country. We also call for humanitarian assistance from the partners to be made available to the entire Burundian population (Burundian refugees and those who remain in the country).

In the context of the appeal made by the Government of Burundi to the politicians in exile and after the cancellation of 15 arrest warrants for some of them, several politicians from the radical opposition have decided to return to Burundi to participate in the socioeconomic development efforts of the country and in the next general elections in 2020. With the continuation of the Inter-Burundi Dialogue in good faith and the multiplication of signs of reconciliation, such as the recent release of 2,500 prisoners and the cancellation of legal proceedings against 11 civil society organizations, the return to Burundi of some politicians in exile will continue. Among those who have already arrived in Burundi are Sylvestre Ntibantunganya, former President of the Republic of Burundi; Alice Nzomukunda, former Second Vice-President of the Republic of Burundi; Joseph Ntidendereza, Member of Parliament of the Front for Democracy in Burundi-Nyakuri (FRODEBU-Nyakuri), a radical opposition party; Mathias Basabose, Member of Parliament and former high-ranking leader of the National Council for the Defence of Democracy-Forces for the Defence of Democracy (CNDD-FDD), the ruling party; and Félix Ndayisenga, former Ambassador of Burundi to Belgium and member of the radical opposition.

In order to open up more political space, the Government of Burundi often organizes meetings for all political parties recognized by national law to discuss the organization of the upcoming 2020 elections in peace, security and transparency. The last meeting was held on 11 October 2016. The Minister of the Interior convened a gathering of political party representatives and political actors to discuss the role of political leaders in the context of peace and dialogue in preparation for the 2020 elections. This permanent dialogue between the Government and political parties and political actors will continue in good faith and with the firm determination to avoid the recurrence of the post-election violence scenario of 2015. We hope that the politicians returning from exile will join this process of dialogue in order to prepare the 2020 elections in a spirit of political tolerance.

With regard to paragraph 71 of the report of the Secretary-General, referring to the intention of the current President to run for what the report calls a "fourth term", it should be recalled that the current President is exercising his second term resulting from popular elections, in accordance with article 96 of the Constitution of Burundi and the rulings of the Constitutional Court and the East African Court of Justice on the legality of the candidacy of the President in the 2015 elections. The President is therefore governed by the current Constitution, which establishes a limit of two presidential terms. It should also be pointed out and recalled that constitutional affairs fall exclusively within the sovereignty of Member States and should not be the subject of comments or discussions at the United Nations. Getting involved in such matters would violate the Charter of the United Nations and the sovereignty of Burundi.

4. Political dialogue

In order to calm the political tensions after the democratic elections of 2015, President Pierre Nkurunziza set up the National Commission for the Inter-Burundi Dialogue to find lasting solutions to Burundi's political, economic and social concerns. The Commission has already submitted its preliminary report to the President and the Parliament. At the same time, at the Summit of Heads of State of the East African Community, the President of Uganda, Yoweri Museveni, was appointed to mediate the Inter-Burundi Dialogue with all peaceful stakeholders and the former President of the United Republic of Tanzania, Benjamin William Mkapa, was appointed head facilitator of the Dialogue.

The facilitator has already organized several Dialogue sessions in Arusha, Tanzania, and the process is proceeding normally. The objective of the Dialogue is not to challenge the institutions elected in 2015, but rather to ensure that the post-electoral tensions of 2015 do not recur in the 2020 elections, to call for non-violence and a culture of peace and to create an environment conducive to the voluntary return of refugees and exiled politicians in preparation for the forthcoming elections in 2020.

The Government of Burundi remains committed to promoting an inclusive Inter-Burundi Dialogue, excluding only the 13 May 2015 coup plotters who are sought under international arrest warrants, in accordance with the principles of the African Union and the United Nations and Security Council resolutions 2248 (2015) and 2279 (2016). Coup plotters must have the same treatment everywhere.

From 16 to 19 February 2017, the facilitator brought together in Arusha, Tanzania, several politicians from the opposition, from within and outside the country, and from the ruling party, CNDD-FDD, and the Ombudsman for an exchange on the ongoing Dialogue. Further Dialogue sessions are planned in the near future. The facilitator plans to successfully conclude the ongoing Dialogue process before the end of 2017.

5. Security situation

In the area of security, while recognizing some challenges, we can say that, compared with 2015, the security situation has been improved and returned to normalcy throughout the national territory, except for isolated incidents of banditry and crime that Burundi is trying to eradicate.

The defence and security forces, composed in the spirit of balance of the Arusha Agreement (50 per cent Hutu and 50 per cent Tutsi) ensure peace and security for all with professionalism, neutrality and patriotism. Those who violate national laws or human rights are punished in accordance with the law. Dozens of policemen and some soldiers are currently in prison in that connection.

The defence and security forces are united in their ethnic, regional, religious and gender diversity to defend Burundi against internal or external aggression. The cohesion of the security forces remains a key factor for peace and stability in the country. Since criminal responsibility is individual, the approach of ethicizing a few rare cases of arrests of military elements that violate laws, as seen in paragraph 23 of the report of the Secretary-General, is very dangerous and should be avoided as

much as possible. It is therefore an error of assessment to be avoided in his next report. It is well known that the situation in Burundi is a fundamentally political problem without any relevant ethnic dimension. The Government discourages all stakeholders, especially the politicians of the radical opposition in exile, from any attempt to use the ethnic fibre for political gain.

Let us condemn the term "militia" chosen in the report to qualify the Imbonerakure (see para. 20), the youth league of the ruling party. This unfair term was never used in the agreed language of the Security Council, which has always preferred the cautious language of "youth affiliated with the political party". These young people participate every Saturday in community development works in a spirit of social coexistence and political tolerance. We are very surprised that in his report the Secretary-General does not say a word about the young people of the radical opposition who attacked the military camps, engaged in targeted killings of ruling party leaders, threw grenades into public squares and burned alive innocent people during and after the violent insurrections. We do believe that this deliberate oversight upsets the content of the report.

It should be stressed, however, that no one is above the law in Burundi. We do not believe that all young people of the ruling party are innocent. As all other citizens, those who violate national laws are punished without discrimination to the full extent of the law. Since criminal responsibility is individual, the attitude of generalizing and putting the entire youth wing of the ruling party in the same basket is very dangerous and should be avoided as much as possible.

6. Human rights

In the area of human rights, we recall that the Government of Burundi attaches great importance to human rights issues. Burundi has adopted a zero tolerance policy in this area that we are working hard to implement. Burundi firmly adheres to the principles of objectivity, non-selectivity and non-politicization of human rights. Burundi recognizes, however, that there are some isolated cases of human rights violations, as there are elsewhere. It is for this reason that we have set up judicial inquiry commissions to shed light on allegations of human rights violations from the beginning of the insurrection to the present day, and some reports have already been made public. It is well known that the promotion of human rights is a long process, an ideal for all, and that no nation has reached its peak, even after more than 100 years of democratic experimentation. For the young Burundian democracy, the road is still long, but the good will to move forward is there and real. The support of our partners remains necessary in this regard.

With regard to the allegations of enforced disappearances, it should be pointed out that several young people who fled the country for military training in neighbouring countries were declared as missing persons. In February alone, the Democratic Republic of the Congo handed over 150 young people to Burundi, several of whom had been declared missing. Enforced disappearances are a global phenomenon to which Burundi attaches great importance. Burundi intends to join other nations in combating this global evil. The number of cases mentioned in the report has been exaggerated and the facts have not been proved since no names have been provided in support of the allegations. Burundi is a small country, everyone

knows everyone. In the case of an enforced disappearance, everyone would know about the case the following day.

7. Press freedom

In the area of press freedom, Burundi recently authorized the reopening of three private radio stations that had been destroyed during the coup d'état on 13 May 2015 and the opening of new private radio stations. Today, more than 24 private and public radio stations, plus international stations (Radio France Internationale, Voice of America, Deutsche Welle and others), 7 television stations, 24 newspapers, 17 websites, 12 associations and professional bodies of the press and 2 news agencies work normally on a daily basis in Burundi. It should also be emphasized that there are no journalists in prison in Burundi. Efforts to improve the freedom of the press in Burundi are continuing. It is a long process, as it is everywhere, and support from the international community in the field of capacity-building is needed.

8. Freedom of assembly, opinion, association and religion

All these freedoms are recognized in the Constitution and other national laws of Burundi. The Ministry of the Interior has already registered 6,500 non-profit associations, of which 100 have been registered since January 2016; more than 40 political parties are operating freely in the country in accordance with national law; and more than 550 religious groups are working freely as well.

Concerning civil society, Burundi has just cancelled the legal proceedings against 11 non-governmental organizations that had been closed during the investigations into the failed coup d'état of 13 May 2015. There is not a single member of civil society in prison in Burundi. This spirit of openness of the Government will be pursued, to promote the work of more than 6,500 non-governmental organizations operating freely in Burundi.

9. Judicial field

Last year, the Government of Burundi cancelled 15 international arrest warrants for certain politicians and members of civil society and the media in exile abroad. It also freed 2,000 prisoners in 2016 and 2,500 others were granted a pardon by the President of the Republic on the occasion of his new year wishes for 2017. On 23 January 2017, the Government started the effective implementation of the presidential pardon in favour of 2,500 prisoners in various prisons throughout the country, including those who were detained following the insurrectional movements of 8 March 2014 and 2015. To date, 2,264 of these prisoners have been released and the remaining prisoners will be released before the end of March 2017.

10. Cooperation with the United Nations

Burundi's most ardent wish is to strengthen good relations of cooperation with the United Nations, our common organization in which we believe. But successfully reinforcing cooperation depends on the willingness of both parties to refrain from taking measures and producing unbalanced reports that are liable to undermine the good relations existing between Burundi and the United Nations.

The dialogue between Burundi and the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the cooperation agreement to set up an OHCHR office in Bujumbura is progressing normally and should be concluded in the near future. In the spirit of strengthening the existing cooperation between the United Nations and the Government of Burundi for greater transparency in the protection of human rights field, the Government of Burundi transmitted on 24 February 2017 to OHCHR in Geneva the draft agreement between the Republic of Burundi and the United Nations concerning the establishment of an office of the High Commissioner for Human Rights in Burundi. The Government of Burundi is looking forward to receiving feedback in order to finalize and sign the agreement in the coming days.

With regard to the cooperation agreement between Burundi and the Office of the Special Adviser to the Secretary-General, Burundi is ready to pursue in good faith frank discussions on the draft agreement proposed by the Secretary-General in order to sign the consensual text as soon as possible. We also believe that the appointment of the new United Nations focal points that will be covering Burundi should accelerate the process of signing this agreement between the two parties. The Department of Political Affairs should play this role.

It should also be pointed out that military and human rights observers from the African Union are on the ground with the full cooperation of the Government of Burundi. Both parties have the good will to conclude the pending memorandum of understanding as soon as possible.

11. What should be done by the international community?

The international community should:

(a) Understand the situation in Burundi as a fundamentally political problem without any relevant ethnic dimension and discourage all stakeholders, especially the politicians of the radical opposition in exile, from any attempt to use the ethnic fibre for political gain;

(b) Continue to promote full respect for the principle of national ownership and the regional dimension in dealing with the situation in Burundi and let the Burundians first and then the region take the lead in the Inter-Burundi Dialogue process and avoid as much as possible any step towards imposing solutions from the outside. The role of the international community would then be limited to providing technical and logistical support in accordance with the key principles of the Charter of the United Nations. In the same vein, the sovereignty, territorial integrity, independence and unity of Burundi must be fully respected;

(c) Change approaches in dealing with the situation in Burundi by replacing the disproportionate political pressure with incentive measures to commend the Government on its efforts to consolidate peace and stabilize the country. The measures taken include the effective resumption of cooperation with the European Union in sectors that are very relevant to the vulnerable population, such as health, education, agriculture, food security and direct budgetary support to the Government for vulnerable groups, namely women, children and youth. It will also be necessary to avoid political pressure on Burundian troops deployed in

peacekeeping missions in many countries. They are fighting against terrorism for our collective security;

(d) Understand that the convening of non-essential meetings on Burundi in the United Nations system and the production of unbalanced and politically motivated reports on the situation in Burundi may be a factor of destabilization rather than a factor in reducing political tensions. The opposition takes advantage of these meetings to commit terrorist acts in Burundi in order to attract the attention of the international community. The United Nations should continue to support the National Commission for the Inter-Burundi Dialogue and the mediation of the East African Community and allow it to lead the inter-Burundian peace process;

(e) Encourage the States that are sheltering the coup plotters of 13 May 2015 and other fugitive criminals sought by justice to hand them over to the Government of Burundi so that they can be brought to justice in conformity with national law. Requesting amnesty in favour of coup plotters goes against the promotion of the rule of law and the fight against impunity. It also violates the democratic principles and values that are against any change of political power by anti-constitutional means;

(f) Encourage countries that have hosted Burundian refugees following the 2015 crisis and the Office of the United Nations High Commissioner for Refugees to facilitate their voluntary return to the country. The Government is ready to welcome them and settle them in their communities. Recently, the former President, Sylvestre Ntibantunganya, and four other leaders of the radical opposition returned home after a period of exile in Belgium. They live normally in the country without being disturbed and exercise all their constitutional rights. The international community should encourage the other politicians who have fled the country to return home to build the economy of Burundi;

(g) Support the national Truth and Reconciliation Commission to shed light on the crimes committed in Burundi since independence with the aim of definitively reconciling Burundians and thus avoiding repeating the history of civil wars;

(h) Assist the Government of Burundi with multidimensional support to stimulate the economic and socioeconomic recovery of local communities. Efforts to address humanitarian, economic and social needs are urgently needed; however, addressing the root causes of the situation will require a broader and coherent humanitarian, socioeconomic, peacebuilding and resilience approach. Those efforts should run in parallel in order to help Burundi make progress in the implementation of the 17 global Sustainable Development Goals;

(i) Help rebuild trust between the Government and some members of the international community. We believe that the Peacebuilding Commission configuration should continue to serve as a forum for dialogue between Burundi and its international partners to move forward and avoid any counterproductive confrontations. Burundi wants to turn the page;

(j) Provide assistance to the Government in order to create an environment conducive to the holding of free, credible, democratic and transparent elections in 2020 in order to avoid the 2015 scenario and pave the way for a new era of sustainable peace and inclusive development.